IN THE HIGH COURT OF UTTARANCHAL
AT NAINITAL
Cr. Misc. Application No. 769/05

1 Smt Chama Devi w/o Sh. Nand Lal Gupta
2 Nand Lal Gupta s/o Sh Roop Narayan Gupta
3 Rajiv Gupta @ Raju s/o Sh Nand Lal Gupta
All residents of Nehru Market Dakpathar
P S Vikas Nagar, District Dehradun

Applicants

Versus

1. State of Uttaranchal
2 Smt. Pano Devi w/o Sh Roop Ram Tomar
R/o opposite of Children Academy School
DakPathar, District Dehradun

Respondents

Hon'ble B.C. Kandpal, J.

This petition under Section 482 Cr.P.C. has been filed by the petitioners for quashing the proceedings in criminal Case No. 2185 of 2003 State Vs Smt.Champa Devi and others under Section 504 IPC pending before the court of Judicial Magistrate IInd, Dehradun.

Brief facts giving rise to this petition are that a report was lodged by respondent No.2 Smt. Pano Devi against the petitioners at Reporting Out Post, Dakpathar, Police Station , Vikasnagar on 9.7.2001 under Section 323,504 and 506 IPC.

The matter was investigated by the police and the Investigating Officer recorded the statement of complainant , Pano Devi and her witnesses under Section 161 Cr.P.C.

The police after completing the proceedings found that no case under Sections 323 and 506 was made out against the petitioners .The Investigating Officer thereafter submitted a charge sheet against the petitioners under Section 504 IPC in the court of Special Judicial Magistrate, Ist Dehradun on 15.10.2001.

After the filing of the charge sheet, the learned Magistrate took cognizance against the petitioners.

The petition has been filed by the petitioners for quashing the charge sheet as well as further proceedings of the criminal case pending against them.

Heard Shri Ramji Srivastawa, learned counsel for the petitioners , learned AGA and perused the record.

The learned counsel for the petitioners has argued that no prima facie case is made out against the petitioners. He has also submitted that the ingredients under Section 504 IPC are not attracted in the present case.

Learned counsel for the petitioners has also tried to point out certain contradiction in the statements of informant recorded under Section 161 Cr.P.C., as well as other witnesses and has submitted that the prosecution case suffers with certain embellishment.

I do not find any force in the arguments advanced by the learned counsel for the petitioners .

The contention raised by the learned counsel for the petitioners relates to the factual aspect of the matter and can be assessed and examined by the trial court . This court is not to embark upon an the inquiry as to the reliability of evidence and sustainability of the accusation on a reasonable appreciation of evidence.

At this stage while exercising the power under Section 482 Cr.P C I am not supposed to deliver any premature decision in the case where the evidence is yet to be assessed and examined by the trial court . I also do not find any flagrant injustice or abuse of the process of court in this case.

The petition under Section 482 Cr.P.C. lacks merit and the same is liable to be dismissed.

Accordingly the petition is dismissed.

(B.C. Kandpal, J.)

9.11.2005
NBJ